



DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2023-OSERS-0020]

Final Priority and Definition--Activities for Underserved Populations

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Final priority and definition.

SUMMARY: The U.S. Department of Education (Department) announces a priority and definition under the Rehabilitation Act of 1973, as amended (Rehabilitation Act), for Activities for Underserved Populations program, Assistance Listing Number (ALN) 84.315C. We take this action to improve the delivery of vocational rehabilitation services to, and the employment outcomes of, individuals with disabilities from underserved populations. For this priority, we define "underserved populations" to mean "Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color." The Department may use this priority and definition for competitions in fiscal year (FY) 2023 and later years.

DATES: Effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Purpose of Program: A purpose of the Activities for Underserved Populations program is to make awards to minority entities and Indian Tribes to conduct research, training, technical assistance, or a related activity to improve the quality, access, delivery of services, and competitive integrated employment outcomes under the Rehabilitation Act, especially for individuals with disabilities from underserved populations. As defined in section 21(b)(5) of the Rehabilitation Act, "minority entity" means "a historically Black college or university, a Hispanic-serving institution of higher education, an American Indian Tribal college or university, or another institution of higher education whose minority student enrollment is at least 50 percent." The definition of "Indian Tribe" in section 7(19)(B) of the Rehabilitation Act is "any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native

village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act) and a Tribal organization (as defined in section 4(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(1)).”

Program Authority: 29 U.S.C. 718(b) (2) (B) .

We published a notice of proposed priority and definition (NPP) for this program in the *Federal Register* on February 8, 2023 (88 FR 8242). That document contained background information and our reasons for proposing the priority and definition.

There are no differences between the NPP and this notice of final priority and definition (NFP), as discussed in the Analysis of Comments and Changes section of this document.

Public Comment: In response to our invitation in the NPP, eight parties submitted comments on the proposed priority and definition. Generally, we do not address technical and other minor changes or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority and definition.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the NPP follows.

Comment: One commenter commended the Department for including Indian Tribes in the definition of “underserved populations” and shared that it demonstrates a tangible effort to expand opportunities for Indian Tribes and is a step forward in repairing and building trust with the Tribes. Another commenter agreed that the priority would strengthen the delivery of services to individuals with disabilities from underserved populations.

Discussion: The Department appreciates support for this priority.

Changes: None.

Comment: One commenter expressed opposition to the proposed priority, stating that by exclusively focusing on or prioritizing awards to minority entities and Indian Tribes as described in 29 U.S.C. 718(b)(2)(B), the priority limits the entities described in 29 U.S.C. 718(b)(2)(C), which permits awards to a State or public or private nonprofit agency or organization to provide outreach and technical assistance to minority entities and Indian Tribes in order to increase their participation in activities carried out under the Rehabilitation Act and enhance their capacity to do so. The commenter asserted that awards should be granted based on the best possible outcome, not the race or ethnicity of the applicant.

Discussion: The proposed priority and definition are directly aligned with the program statute. Section 21 of

the Rehabilitation Act (29 U.S.C. 718(b)(2)(A-C)) establishes three allowable activities for this program and the entities eligible to receive awards for each of the allowable activities. The Department has provided funding opportunities under each of the allowable activities at different times since this program was authorized, including section 718(b)(2)(C). For this funding opportunity, as described in the NPP, the Department determined that there was a need for the activities authorized by section 718(b)(2)(B). The Department further determined that this priority and definition align with such activities, as well as the Secretary's Supplemental Priorities and Definitions for Discretionary Grant Programs, published in the *Federal Register* on December 10, 2021 (86 FR 70612), and Executive Order 13985 for Advancing Racial Equity and Support for Underserved Communities Through Federal Government, published in the *Federal Register* on January 20, 2021 (86 FR 7009).

Changes: None.

Comment: One commenter recommended that the priority include targeted research and interventions in educational settings for Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color who identify as LGBTQ+. The commenter noted that LGBTQ+ youth of color experience

higher rates of homelessness and poverty and should be included in the priority.

Discussion: We appreciate the recommendation for including targeted research and interventions in educational settings in the priority for Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color who identify as LGBTQ+. However, the purpose of the priority is to improve the delivery of State vocational rehabilitation (VR) services to individuals with disabilities from underserved populations with the goal of improving competitive integrated employment outcomes. The Department anticipates that the training and technical assistance provided to State VR agencies through this priority will ultimately benefit Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color, who are individuals with disabilities, including those who identify as LGBTQ+.

Changes: None.

Comment: One commenter stated that the priority should provide an avenue for minority-serving institutions to train pre-service students and build the capacity of future VR counselors to effectively serve underserved populations. The commenter also suggested that additional strategies are needed to build a critical mass of skilled researchers at minority-serving institutions to study long-term inequities

in employment experienced by individuals with disabilities from underserved populations. The commenter also inquired if applicants could propose activities to build a pipeline at minority-serving institutions to train and mentor students as future research leaders who could generate novel knowledge that informs service intervention and policy innovation for reducing employment disparities among individuals with disabilities from underserved populations.

Discussion: The Department believes that pre-service training is essential to improving VR services to, and competitive integrated employment outcomes of, individuals with disabilities from underserved populations. As stated in the priority, applicants are required to disseminate training and technical assistance material, analysis of data collected, evidence-based and promising practices, and lessons learned to RSA-funded Rehabilitation Long-Term Training projects designed to provide pre-service training, as well as RSA-funded technical assistance centers, Department-funded programs, and Federal partners, as applicable. In addition, applicants must develop products, such as toolkits, guides, manuals, webinars, and communities of learning for instructors, facilitators, State VR agency directors, and human resource and professional development specialists to facilitate the implementation of training and technical assistance material in curriculum and relevant training and

development activities.

The Department also agrees that research focused on inequities in employment for individuals with disabilities from underserved populations, and encouraging students at minority entities to engage in such research, could help the VR system better enable individuals with disabilities from underserved populations to access VR resources, secure competitive integrated employment, and reach future goals. To that end, the priority requires the grantee to contribute to VR research and pedagogical practices that promote access to approaches that are racially, ethnically, culturally, and linguistically inclusive. Further, as described in paragraph (c)(iv) of the Application Requirements, under "Quality of Project Services," applicants may include any other training and technical assistance activity that improves understanding, responsiveness, and delivery of services to, and competitive integrated employment outcomes for, underserved populations. For example, applicants may propose an activity at a minority entity to train and mentor students who could generate new knowledge that informs service intervention and policy innovation for reducing employment disparities among individuals with disabilities from underserved populations. However, activities included under paragraph (c)(iv) should not be the entire focus of the project, since the applicant must propose a project



that, at a minimum, provides direct training and technical assistance to VR agencies by conducting all of the activities described under Application Requirements, paragraphs (a) through (f) in a culturally appropriate manner.

Changes: None.

Comment: One commenter recommended that the Department also target vulnerable populations such as English learners and individuals living in rural or remote communities under this priority. The commenter added that underserved and vulnerable populations often experience disproportionate outcomes.

Discussion: The Department agrees with the commenter that English learners and individuals living in rural or remote communities have experienced inequities that have limited or prevented their ability to achieve competitive integrated employment; however, the program authority under which the funding is appropriated is based on congressional findings regarding the inequitable treatment of individuals from minority backgrounds in the VR process, and the statute instructs the Secretary to concentrate on improving the outcome of services provided under the Rehabilitation Act to individuals from minority backgrounds. 29 U.S.C. 718 (Section 21, "Traditionally Underserved Populations"). Therefore, in order to comply with statutory requirements, this priority focuses its definition of "underserved

populations” on individuals from minority backgrounds:

“Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color.” While such underserved populations will likely include some English learners and individuals from rural or remote areas, they are not specifically included in the target population due to the statutory focus on individuals from minority backgrounds in this particular funding opportunity. However, under the priority, the grantee must contribute to VR research and pedagogical practices that promote access to approaches that are racially, ethnically, culturally, and linguistically inclusive.

Changes: None.

Comment: One commenter recommended that we clearly define short- and long-term goals in the priority. The commenter raised concerns about the five-year performance period and proposed that the priority set intervals for evaluating the effectiveness of the training and technical assistance that the grantee is providing to the identified State VR agencies. The commenter added that the Delphi method (a term generally used to describe a structured, iterative survey or feedback process to elicit and combine expert opinion to reach consensus) could help analyze different phases of development.

Discussion: The Department appreciates the commenter’s concerns and suggestions. The Department notes that, under

paragraph (d) of the Application Requirements, "Quality of the Project Evaluation," applicants must include an evaluation plan for the project that includes such periodic review. The plan must describe a process or approach that will be used for gathering feedback from the identified State VR agencies throughout years two, three, four, and five of the project for continuous improvement and to evaluate the effectiveness of the training and technical assistance provided to a minimum of 15 State VR agencies. Additionally, under paragraph (d)(3), applicants must describe methodologies, including instruments, data collection methods, and analyses, that will be used to evaluate the project and how the methods of evaluation will produce quantitative and qualitative data to demonstrate whether the project activities achieved their intended outcomes. Applicants may propose the Delphi method or other appropriate methods to meet this requirement.

Changes: None.

Comment: One commenter responded to the Department's directed questions about the requirement for applicants to provide technical assistance to a minimum of 15 State VR agencies (Combined, General, or Agencies for the Blind) over a five-year period. The commenter spoke to how the requirement of providing technical assistance to a minimum of 15 State VR agencies may deter Indian Tribes from applying for this funding opportunity. The commenter

recommended lowering the requirement from a minimum of 15 State VR agencies to five because of limited Tribal operating budgets, the rural location of many Tribes, and changes in program staff resulting from Tribal elections. As it applies to Tribes located in Montana and the Rocky Mountain and Great Plains regions, the commenter explained that the minimum requirement may discourage Tribes from the funding opportunity altogether. The commenter indicated that Tribes in Montana operate under very limited budgets to meet the respective needs of the people they serve, and that providing training and technical assistance to a minimum of 15 State VR agencies over five years will likely contribute to additional budget constraints and concerns. The commenter added that it would also be difficult for Tribes in these regions to host or coordinate 15 trainings as Indian Reservations can be hundreds of miles from the neighboring county seat. Additionally, the commenter shared that Tribal elections could result in a change in the program applicant or program coordinator within the five-year grant period, particularly in Montana, where most Tribes hold elections every two years.

Discussion: We appreciate the commenter's concerns about the capability of Indian Tribes located in rural areas to successfully provide training and technical assistance to a minimum of 15 State VR agencies over a five-year

performance period, including concerns about limited operating budgets and changes in Tribal government leadership. There are currently 78 VR agencies (34 Combined VR agencies, 22 General VR agencies, and 22 Blind VR agencies) and 93 Tribal VR programs. In addition, the Department funds the American Indian Vocational Rehabilitation Training and Technical Assistance Center and Tribal VR Institute (AIVRTTAC), which assists Tribal governments to develop or to increase their capacity to provide a program of vocational rehabilitation services, in a culturally relevant manner, to American Indians with disabilities residing on or near Federal or State reservations. The program's goal is to enable these individuals, consistent with their individual strengths, resources, priorities, concerns, abilities, capabilities, and informed choice, to prepare for and engage in gainful employment. Program services are provided under an individualized plan for employment and may include native healing services. The AIVRTTAC ensures that all materials and activities are culturally responsive through providing culturally responsive teaching, researching needs assessments, including examining and developing culturally based promising VR practices, assisting AIVRTTAC participants in adapting standard VR practices to the cultural and social needs of AIVRS projects, using the AIVRTTAC holistic AIVRS project model, and developing

opportunities to bridge understanding between cultures. The Department identified a minimum number of State VR agencies based on factors such as cost, level of effort, scope of the project, duration of the training and technical assistance, and the unique challenges and demographics of State VR agencies. We note that the grantee may offer training and technical assistance in-person and remotely to the identified State VR agencies. The grantee may also determine how many State VR agencies to serve each year over a five-year period to meet the minimum requirement. In addition, applicants may subgrant to Indian Tribes to directly carry out project activities described in the priority, as stated in the notice inviting applications published elsewhere in this issue of the *Federal Register*.

In addition to these factors, the Department also recognizes the financial constraints of Indian Tribes, especially those located in rural areas, may be a potential barrier to applying for this competition. Therefore, the Department will expand the range of State VR agencies the grantee must serve in the Final Priority from 15 to a minimum range of 5 to 15 to ensure all applicants have an opportunity to successfully meet the goals of this program. When determining a minimum range of State VR agencies to serve, applicants should consider the estimated available funds described in the notice inviting applications

published elsewhere in the *Federal Register*. Given the Department only plans to award one grant, applicants are encouraged to identify a meaningful number of State VR agencies to receive training and technical assistance from this project in order to increase competitive integrated employment outcomes for individuals with disabilities from underserved populations.

Changes: In the Final Priority, the Department provides funding for a cooperative agreement for a minority entity or an Indian Tribe to provide training and technical assistance to a minimum range of 5 to 15 State VR agencies (Combined, General, or Agencies for the Blind) over a five-year period of performance.

Comment: One commenter recommended that individuals with 8(a) certification (socially and economically disadvantaged small businesses) be included as eligible applicants.

Discussion: We appreciate the comment. However, for-profit entities, including small businesses, are not eligible applicants under 29 U.S.C. 718(b)(2)(B).

Changes: None.

FINAL PRIORITY:

Improving the Delivery of Vocational Rehabilitation Services to, and the Employment Outcomes of, Individuals with Disabilities from Underserved Populations.

Under this priority, the Department provides funding for a cooperative agreement for a minority entity or an

Indian Tribe to provide training and technical assistance to a minimum range of 5 to 15 State VR agencies (Combined, General, or Agencies for the Blind) over a five-year period of performance so that the agencies are equipped to serve as role models for diversity, equity, inclusion, and accessibility in the workforce system by implementing policies, practices, and service delivery approaches that are designed to contribute to increasing competitive integrated employment outcomes for individuals with disabilities from underserved populations. Further, the grantee must contribute to VR research and pedagogical practices that promote access to approaches that are racially, ethnically, culturally, and linguistically inclusive.

During the first year of the project the grantee will focus on developing training and technical assistance material and gathering input and feedback from a diverse group of stakeholders including the Rehabilitation Services Administration (RSA), State VR agencies, and other relevant partners. During the period of performance, the grantee must enter into agreements with the State VR agencies receiving training and technical assistance. Each agreement must: specify the level of involvement from VR agency leadership and personnel and include an assurance that the VR agency is committed to sustainable systems change across the organization for improving delivery of



services to underserved populations; explain how data will be collected and shared; identify training and technical assistance needs, intervention strategies, and implementation timelines; and describe how outcomes will be measured. The grantee must have a minimum of two agreements in place by the end of the first year of the grant.

#### Application Requirements

To be considered for funding under this priority, applicants must, at a minimum, propose a project that will conduct the following activities in a culturally appropriate manner. The Department encourages innovative approaches to meet this requirement. To meet this requirement, applicants must--

(a) Demonstrate, in the narrative section of the application under "Significance of the Proposed Project," an understanding of the inequities and challenges experienced by individuals with disabilities from underserved populations determined eligible to receive VR services. To meet this requirement, applicants must--

(1) Present information and relevant data about the disparities that exist with respect to VR services and employment outcomes for underserved populations; and

(2) Describe how the project proposes to improve VR services for, and competitive integrated employment outcomes of, underserved populations.

(b) Demonstrate, in the narrative section of the application under "Quality of Project Design," how the project will address inequities and challenges experienced by underserved populations determined eligible to receive VR services. To meet this requirement, applicants must--

(1) Demonstrate knowledge and experience working with individuals with disabilities from underserved populations;

(2) Incorporate into the project design current research and promising and evidence-based practices (EBPs),<sup>1</sup> research about adult learning principles and implementation science, and relevant findings, recommendations, and relevant strategies identified by the Targeted Communities project<sup>2</sup> to overcome barriers to competitive integrated employment and VR participation for individuals with disabilities from underserved populations;

(3) Detail how the project will collect and examine data, including from the RSA-911 and other relevant sources, from a minimum range of 5 to 15 State VR agencies regarding VR applicants, VR-eligible individuals, and VR participants by race/ethnicity by--

(i) Exploring patterns, changes, or shifts in

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<sup>1</sup> For purposes of these requirements, "evidence-based practices" (EBPs) means, at a minimum, demonstrating a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.

<sup>2</sup> Final Report from the Vocational Rehabilitation Technical Assistance Center for Targeted Communities (Project E3) (PR/Award # H264F150003) <https://ncrtm.ed.gov/library/detail/vocational-rehabilitation-technical-assistance-center-targeted-communities-project> and project website: <https://projecte3.com/>.

demographics for individuals with disabilities from underserved populations;

(ii) Exploring data, by race/ ethnicity, from each State VR agency regarding VR applicants to identify opportunities for increased outreach to and referral of individuals with disabilities from underserved populations to VR services;

(iii) Examining data, by race/ethnicity, from each State VR agency regarding selected VR services and competitive integrated employment outcomes at exit to identify inconsistencies or gaps in the provision of services;

(iv) Examining data from each State VR agency to identify reasons for successful and unsuccessful closures between VR program participants from underserved populations and VR program participants who are not from underserved populations; and

(v) Reviewing each State VR agency's service delivery model from eligibility determination to exit; and

(4) Present approaches for how the information and data described above will be used to inform strategies to improve the delivery of services to individuals with disabilities from underserved populations for each of the identified State VR agencies. For example, applicants may consider conducting a needs assessment and asset map for each of the identified State VR agencies to identify

existing programs and services and businesses and philanthropic organizations in the community, as well as potential gaps and opportunities for collaboration, to support individuals with disabilities from underserved populations in successfully obtaining competitive integrated employment. Applicants may also consider designing a long-term data collection tool and provide analytical support and training to the identified State VR agencies to identify additional data elements not captured in the RSA-911 or other case management systems to continually assess the quality of services and outcomes for individuals with disabilities from underserved populations and individuals with disabilities not from underserved populations.

(c) Demonstrate, in the narrative section of the application under "Quality of Project Services," how the project will be designed so that policies, practices, and service delivery approaches will contribute to increased competitive integrated employment outcomes for individuals with disabilities from underserved populations. To meet this requirement, applicants must--

(1) Propose training and technical assistance activities that will be offered to the identified State VR agencies. Training and technical assistance activities will be further developed during the first year of the grant and described in the agreements with the identified

State VR agencies based on needs and analysis of data.

Training and technical assistance activities may include, but are not limited to, (i) assisting in State VR agency coordination and cross-agency partnerships with State and local agencies and community-based organizations, workforce programs, educational institutions, and other relevant local community agencies and organizations (i.e., agencies and organizations that provide services and supports related to mental health, substance use, behavioral health, intellectual developmental disabilities, and other areas of need such as housing, food, transportation, and healthcare) to strengthen outreach and awareness about VR programs and services, build trust between State VR agency counselors and individuals with disabilities from underserved populations, and connect individuals with disabilities from underserved populations determined to be VR eligible with necessary supports to successfully obtain competitive integrated employment; (ii) reviewing policies, practices, and procedures from the identified State VR agencies and providing recommendations to help ensure they are culturally appropriate and implemented in an appropriate manner; (iii) developing strategies to strengthen diversity in the VR workforce (e.g., reviewing hiring practices from the identified State VR agencies and identifying strategies that expand outreach to VR counselors from underserved populations and mentoring and coaching activities for new

and existing VR counselors and paraprofessionals, human resource and professional development specialists, and VR management and leadership personnel from underserved populations); and (iv) any other activity that improves understanding, responsiveness, and delivery of services to, and competitive integrated employment outcomes for, individuals with disabilities from underserved populations;

(2) Detail how those activities will incorporate relevant strategies and promising and effective practices identified by the Targeted Communities Project and other EBPs or related sources to the extent possible;

(3) Explain how training and technical assistance activities will be of high quality and sufficient intensity and duration to achieve the intended outcomes of the project;

(4) Describe how remote learning<sup>3</sup> opportunities will be incorporated into the project. Remote learning opportunities should offer experiences that advance engagement and implementation (e.g., synchronous and asynchronous professional learning, professional learning networks or communities, and coaching), which could also be incorporated into Rehabilitation Counseling programs, as well as other training and professional development

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<sup>3</sup> "Remote learning" means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner's educational needs. Remote learning may include online, hybrid/blended learning, or non-technology-based learning (e.g., lab kits, project supplies, paper packets).

activities designed for the VR workforce, as appropriate. The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973;

(5) Describe their knowledge, skills, and experience to support the training and technical assistance activities described above;

(6) Describe how the project will contribute to VR research and pedagogical practices that promote access to approaches that are racially, ethnically, culturally, and linguistically inclusive. To meet this requirement, applicants must describe how they will--

(i) Disseminate to all State VR agencies, RSA-funded Rehabilitation Long-Term Training projects and technical assistance centers, Department-funded programs, and Federal partners, as applicable, training and technical assistance material, analysis of data collected, evidence-based and promising practices, and lessons learned;

(ii) Develop products, such as toolkits, guides, manuals, webinars, and communities of learning, for instructors, facilitators, State VR agency directors, and human resource and professional development specialists to facilitate the implementation of training and technical assistance material in curriculum and relevant training and development activities; and

(iii) Gather input and feedback from a diverse group

of stakeholders and subject matter experts, including RSA, State VR agencies, and other relevant partners, throughout the project to inform the development and delivery of the material described above.

(d) In the narrative section of the application under "Quality of the Project Evaluation," include an evaluation plan for the project. The evaluation plan must describe--

(1) Clear and measurable outcomes;

(2) Approaches for measuring the effectiveness of the intervention strategies identified in the agreements, including standards and targets for measuring knowledge, skills, and abilities of State VR agency personnel before and after completion of training activities. To address this requirement, applicants must provide an approach for determining--

(i) The most effective practices in improving the delivery of services to individuals with disabilities from underserved populations and the data that demonstrate the effectiveness of the practices; and

(ii) The most effective practices in creating a culture of systems change within the State VR agency and the data that demonstrate the effectiveness of the practices;

(3) Methodologies, including instruments, data collection methods, and analyses, that will be used to evaluate the project and how the methods of evaluation will



produce quantitative and qualitative data to demonstrate whether the project activities achieved their intended outcomes;

(4) How the evaluation will be coordinated, implemented, and revised, as needed, during the project. The applicant must designate at least one individual with sufficient dedicated time, demonstrated experience in evaluation, and knowledge of the project to coordinate and conduct the evaluation. This may include, but is not limited to, making revisions to reflect any changes or clarifications, as needed, to the model and to the evaluation design and instrumentation with the logic model (e.g., designing instruments and developing quantitative or qualitative data collections that permit collecting of progress data and assessing project outcomes);

(5) How evaluation results will be used to improve delivery of services to VR program participants from underserved populations from eligibility determination to exit. To address this requirement, applicants must provide an approach to gather input and feedback that includes the experiences of VR program participants from underserved populations. Applicants may consider voluntary focus groups, use of a unique identifier, or another approach that adheres to consumer confidentiality requirements in 34 CFR 361.38; and

(6) A process for gathering feedback from the

identified State VR agencies for continuous improvement throughout years two, three, four, and five of the project.

(e) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how applicants will ensure that--

(1) The project's intended outcomes, including the evaluation, will be achieved on time and within budget through--

(i) Clearly defined responsibilities of key project personnel, subawards, and contracts, as applicable;

(ii) Procedures to track and ensure completion of the action steps, timelines, and milestones established for key project activities, requirements, and deliverables;

(iii) Internal monitoring processes to ensure that the project is being implemented in accordance with the established application and management plan; and

(iv) Internal financial management controls to increase efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes, and how the applicant will ensure accurate and timely obligations, drawdowns, and reporting of grant funds, as well as monitoring subawards as applicable, in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200 and the terms and conditions of the Federal award;

(2) The allocation of key project personnel,

subawards, as applicable, and levels of effort of key personnel are appropriate and adequate to achieve the project's intended outcomes;

(3) The products and services are of high quality, relevance, and usefulness, in both content and delivery and are accessible to individuals with disabilities in accordance with section 504 of the Rehabilitation Act of 1973, as applicable;

(4) The proposed project will benefit from a diversity of perspectives; and

(5) Projects will be awarded and operated in a manner consistent with nondiscrimination requirements contained in the Federal civil rights laws.

(f) Include the following:

(1) In Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) In Appendix A, a logic model<sup>4</sup> that depicts, at a minimum, the goals, activities, outputs, and outcomes of the proposed project;

(3) An assurance to maintain a high-quality website, with an easy-to-navigate design that is accessible to individuals with disabilities in accordance with Section

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<sup>4</sup> "Logic model" (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

504 of the Rehabilitation Act of 1973, as applicable; and

(4) An assurance that training and technical assistance materials such as outreach, training curricula, presentations, reports, outcomes, and other relevant information will be submitted to RSA's National Clearinghouse of Rehabilitation Training Materials (NCRTM) (<https://ncrtm.ed.gov/>) at least 90 days before the end of the final budget period.

FINAL DEFINITION:

*Underserved populations* means Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders, and other persons of color.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that

meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866, 13563, and 14094

#### Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866, as amended by Executive Order 14094, defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$200 million or more (adjusted every 3 years by the Administrator of OIRA for changes in gross domestic

product); or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, territorial, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise legal or policy issues for which centralized review would meaningfully further the President's priorities or the principles stated in the Executive order, as specifically authorized in a timely manner by the Administrator of OIRA in each case.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866 (as amended by Executive Order 14094).

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may

include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority and definition only on a reasoned determination that their benefits justify the costs. In choosing among alternative regulatory approaches, we selected the approach that maximizes net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Summary of potential costs and benefits:

The Department believes that the costs associated with the final priority and definition will be minimal, while the potential benefits are significant. The Department believes that this regulatory action does not impose



significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program will outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be burdensome for eligible applicants, including small entities.

Paperwork Reduction Act of 1995

The final priority and definition contain information collection requirements that are approved by OMB under OMB control number 1820-0028; the final priority and definition do not affect the currently approved data collection.

Regulatory Flexibility Act Certification: The Secretary certifies that this final regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define "small entities" as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this regulatory action will affect are minority entities and Indian Tribes that may apply. We believe that the costs imposed on an applicant by the final priority and definition will be limited to paperwork burden related to preparing an application and that the benefits of the final priority and definition will outweigh any costs incurred by the applicant. We also believe that there are very few entities that can provide the type of technical assistance required under the final priority and definition. For these reasons, the final priority and definition will not impose a burden on a significant number of small entities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an

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